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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING: PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT

Written statement submitted by Women's International Democratic Federation and World Federation of Trade Unions, non-govenmental organizations in consultative status (category I), American Association of Jurists, International Association of Democratic Lawyers, International Indian Treaty Council, International League for the Rights and Liberation of Peoples, Latin American Federation of Associations of Relatives of Disappeared Detainees, Pax Romana, Service, Justice and Peace in Latin America, Women's International League for Peace and Freedom and World Student Christian Federation, non-governmental organizations in consultative status (category II), and Movement against Racism and for Friendship among Peoples and International Peace Bureau, non-governmental organizations on the Roster

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

GE.92-10324/3309H

[21 January 1992]

1. On 22 December 1989, the General Assembly of the United Nations voted almost unanimously (there were only five abstentions and no vote against) resolution 44/215 on "Economic measures as a means of political and economic coercion against developing countries", in which it deplored the fact that some developed countries continued to apply and, in some cases, had increased the scope and magnitude of economic measures that had the purpose of exerting, directly or indirectly, coercion on the sovereign decisions of the developing countries subject to those measures. The resolution further called upon the developed countries to refrain from exercising political coercion through the application of economic instruments with the purpose of inducing changes in the economic or social systems, as well as in the domestic or foreign policies, of other countries. The resolution recalled other relevant resolutions of the General Assembly, article 32 of the Charter of Economic Rights and Duties of States, resolution 152 (VI) dated 2 July 1983 of the United Nations Conference on Trade and Development, the principles and rules of the General Agreement on Tariffs and Trade, etc. The General Assembly expressed, in the same resolution, its grave concern that the use of coercive measures adversely affected the economies and development efforts of developing countries and that, in some cases, those measures had worsened, creating a negative impact on international economic cooperation.

2. In the case of the embargo against Nicaragua, in its Judgment of 27 June 1986 (Nicaragua vs United States of America), the International Court of Justice stated, in subparagraph (11) of operative paragraph 292, that: " ... the United States of America, by the attacks on Nicaraguan territory referred to in subparagraph (4) hereof, and by declaring a general embargo on trade with Nicaragua on 1 May 1985, has acted in breach of its obligations under Article XIX of the Treaty of Friendship, Commerce and Navigation between the Parties signed at Managua on 21 January 1956".

3. The General Assembly of the United Nations, in its resolution 44/217 of 22 December 1989, deploring the continuation of the trade embargo against Nicaragua, referred to the Judgment of the International Court of Justice of 27 June 1986. Thus, the two highest - political and legal - international bodies condemned unequivocally as contrary to international law the use by a country of economic pressure, and particularly of measures of trade embargo, as a means of coercion for the purpose of inducing changes in the domestic or foreign policies of another country.

4. However, such situations are still occurring, as in the case of the embargo imposed 30 years ago by the Government of the United States of America against the Republic of Cuba. In this case, the Government of the United States not only prohibits trading with Cuba by the enterprises established on its own territory, but also by subsidiary firms installed in the territories of other countries. It also exerts pressure on foreign firms which manufacture products containing components of United States origin to prevent them from selling those products to Cuba, by threatening to suspend

the supply of the said components. The attempt to impose specific commercial policies on firms based outside the United States affects the sovereign right of the third States to apply national rules to the firms established in their territories, to the exclusion of foreign rules, especially if they are contrary to international law.

5. Until recently, the Republic of Cuba was able to overcome, at least partly, the consequences of the embargo imposed by the Government of the United States owing to its substantial trade with the countries having centrally planned economies. However, the profound economic and political changes that have occurred in those countries have also entailed fundamental changes in the direction of their foreign trade, with the result that Cuba has lost important markets for its products as well as sources of supply of goods (energy, food, commodities, medicines, etc.) that are essential for its survival and development.

6. It is clear that, in these circumstances, the embargo imposed by the Government of the United States on the Republic of Cuba - a de facto multinational embargo - violates not only international free-trade rules and the right to development but also fundamental human rights in that it deprives the Cuban people of goods essential for their nourishment, health, education, etc. The international community cannot accept that, in time of peace and when the momentous transformations that have taken place in many countries should be the starting point for the creation of a world society based on mutual respect, law and justice, a great Power should try to exert pressure on the Government of a small country, condemning the people of that country to a state of extreme necessity, in violation of basic principles of international law.

7. The motives invoked by the Government of the United States - to compel internal changes in the Republic of Cuba favourable to the full realization of human rights - cannot justify the means employed which are clearly condemned by the highest international bodies. Within the United Nations, there are bodies competent to deal with situations concerning human rights, and various States, in particular the United States of America, have expressed before those bodies their concern at the situation of human rights in Cuba. The Commission on Human Rights, echoing those concerns, adopted its resolution 1991/68 inviting the General Secretary to appoint a special representative on Cuba, who has already taken up his duties. That was a multilateral decision, approved in the framework of the United Nations and in accordance with the Charter, and not a unilateral decision adopted outside the United Nations and contrary to the Charter, like the embargo on Cuba imposed by the Government of the United States.

8. For the reasons given above, the undersigned non-governmental organizations request the Commission on Human Rights to adopt, at its forty-eighth session, a resolution calling upon the Government of the United States to lift the embargo imposed on the Republic of Cuba.